



12-19-05

#14 DFE

PTO/SB/64 (07-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

39829-0002

First named inventor: Junaid Islam

Application No.: 09/679,321

Art Unit: 2152

Filed: 10/3/2000

Examiner: Delgado, Michael A.

Title: PROGRAMMABLE NETWORK APPLICATION

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DEC 23 2005

OFFICE OF PETITIONS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

12/20/2005 SSSESHE1 00000067 081641 09679321

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750.00 DA

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Response to Office Action (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Paul Davis
Signature

December 16, 2005
Date

Paul Davis
Typed or printed name

29,294
Registration Number, if applicable

Heller Ehrman LLP
Address

650.324.7000
Telephone Number

275 Middlefield Road, Menlo Park, CA 94025
Address

Enclosures: ☒ Fee Sheet

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Petition for Extension of time (3 Months) (on Fee Sheet); return postcard

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being: EXPRESS MAIL NO. EV 765 981 289 US

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as EXPRESS mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

December 16, 2005
Date

Rachel Mena
Signature

Rachel Mena
Typed or printed name of person signing certificate



Practitioner's Docket No. 39829-0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Junaid Islam

Serial No.: 09/679,321

Filed: 10/03/2000

For: Programmable Network
Application Server

) Confirmation No. 6682

) Group No.: 2143

) Examiner: Delgado, Michael

) **STATEMENT**

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OFFICE OF PETITIONS

Express Mail No. EV 765 981 289 US

Date: December 16, 2005

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**Statement in Support of Petition for Revival of an Application for Patent Abandoned
Unintentionally Under 37 CFR 1.137(b)**

Dear Sir:

Applicants' attorney hereby petitions to request the withdraw the holding of
abandonment of the present application and offers the following facts in support of the petition.
Applicants also believe that there is ground for revival based on Failure To Receive Office
Action under 37 CFR 1.181(a):

1) The present Applicant, Bivio Networks, of Pleasanton, California ("Bivio") filed this
application while Bivio was located at 4695 Chabot Drive, Pleasanton California 94586.

Attorney Docket No.: 39829-0002
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Statement in Support of Petition for Revival of an Application
for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)
- PAGE 1 -

2) After the present application was filed, Bivio moved its corporate offices twice. Bivio is currently located at 4457 Willow Road, Suite 200, Pleasanton CA 94588.

3) The last address of record according to the USPTO PAIR website was 4755 Willow Road, Suite 100, Pleasanton CA 94588 (Copy attached). **Bivio, however, was never at that location.**

4) Accordingly, Bivio has not received any recent correspondence from the USPTO, including the Office Action mailed on June 10, 2004 (according to the PAIR website). Bivio also did not received a Notice of Abandonment for the present application. A search of the file jacket and docket records indicate that neither document was received. A copy of the docket indicates that no office action was docketed as due on September 10, 2004 (3 months after the mail date of the Office Action).

5) Upon learning of the application's abandonment, Applicant telephoned Examiner Phan and requested a facsimile copy of the office action, which was received on **June 24, 2005**.

5) Bivio had no intention of abandoning the above-referenced application. Bivio did intend counsel to reply to the office action prior to abandonment. Accordingly, Bivio as the applicant requests that the Examiner withdrawal the holding of abandonment for the present application.

Any additional fees, including any fees necessary for extension of time, which may be required as a result of this communication, or any credits and/or overpayments in connection with this application should be charged to Deposit Account 08-1641 and should reference Docket No. 39829-0002.

Respectfully submitted,

HELLER EHRMAN LLP

Date: December 16, 2005


Paul Davis, Reg. No. 29,294

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